

Application Serial No.: 09/891,806
Amdt. Dated February 18, 2005
Reply to Office Action of October 20, 2004

REMARKS

The Office Action dated October 20, 2004 has been carefully considered. In response to the Office Action, Applicants file herewith a Supplemental Declaration of Yong Chin Chang Under 37 C.F.R. §1.131 and a Declaration of Sung Yong Chang Under 37 C.F.R. §1.131 to overcome the objection to the previously filed Declaration of Yong Chin Chang Under 37 C.F.R. §1.131. As a result, it is respectfully submitted that Claims 1-3, 5-10 and 12-20 now stand in condition for allowance.

The Office Action contains an informal objection to Claim 5 in that "4" should be shown in strikethrough. In response, Applicants have amended Claim 5 to show the deletion of [4]. It is believed that the objection to Claim 5 has been remedied.

Also in the Office Action, the Examiner indicates that the Declaration Applicants previously filed is ineffective to overcome the Nail Max 2000 magazine. In particular, the Examiner states that the evidence submitted January 28, 2004 under 37 C.F.R. 1.131 is insufficient to establish a reduction to practice of the invention prior to the effective date of the Nail Max 2000 reference. The Examiner states that there is ambiguity as to whether all of the embodiments shown are entitled to the date averred to in the Declaration. The Examiner further states that there is no way of verifying the date shown in the photograph presented as evidence. Taken together, the Examiner concludes that a reasonable person could not accept the Declaration as sufficient evidence of prior reduction to practice.

Applicants first thank the Examiner for the courtesies extended to their attorney during a telephone conference on October 26, 2004. Pursuant to the Examiner's suggestions, Applicants submit herewith Declarations from both inventors which sufficiently establish a reduction to practice of the invention prior to the effective date of the Nail Max 2000 reference. Specifically, the Supplemental Declaration of Yong Chin Chang Under 37 C.F.R. §1.131 establishes that the artificial fingernail inventions claimed in the above-referenced patent application were conceived in early 1999. Such conception is clearly evidenced by the

Exhibits attached to the Supplemental Declaration. Exhibit A to the Supplemental Declaration is a photograph of an actual sample board including a set of artificial fingernail samples that was manufactured in May, 1999. Mr. Chang states that the board depicted in Exhibit A was dated "1999.05.15" at the time the board with samples was made. Mr. Chang further states that the claimed invention is embodied in the samples labeled "IVY029," "IVY030," "IVY031" and "IVY040" on the board.

Exhibit B to the Supplemental Declaration is another photograph of an actual sample board including a set of artificial samples made on November 11, 1999. Mr. Chang states that the sample board depicted in Exhibit B was dated "1999.11.11" at the time the board with samples was made. Mr. Chang further states that the claimed invention is embodied in the samples labeled "AB029," "AB030," "AB031" and "AB040" on the board.

Exhibit C to the Supplemental Declaration is another photograph of an actual sample book including a set of artificial nail samples made in 1999. Mr. Chang states that the sample book depicted in Exhibit C was made in 1999 for subsequent showing to prospective customers and includes samples labeled "AD10," "AD23," "AD31" and "AD55," which embody the inventions of the present application.

All of the above is corroborated by Yong Jin Chang's brother and co-inventor Sung Yong Chang. Specifically, Mr. Sung Yong Chang also avers that the claimed invention was reduced to practice prior to December 15, 1999, the effective date of the Nail Max 2000 reference.

It is respectfully submitted that the Declarations of the inventors submitted herewith unambiguously establish a reduction to practice prior to the effective date of the Nail Max 2000 reference. It is further submitted that the embodiments of the claimed invention are clearly identified in the evidence presented and the dates shown on the evidence presented are sufficiently verified. In this regard, it is noted that pursuant to MPEP §§715.02 and 715.07, if the Declaration contains facts showing a completion of the invention commensurate with the extent of the invention as claimed, the Declaration is sufficient to establish a reduction to

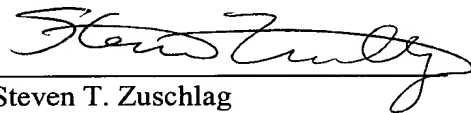
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practice. Moreover, with respect to the verification of actual dates on the submitted evidence, it is respectfully submitted that the inventors' factual statements declared under penalty of perjury in their respective Declarations are sufficient to verify conception and reduction to practice. (See MPEP §715.07(II).)

Accordingly, Applicants respectfully request withdrawal of the rejections based on the Nail Max 2000 magazine. With the elimination of the Nail Max 2000 magazine as a prior art reference, it is respectfully submitted that Claims 1-3, 5-10 and 12-20 are now in condition for allowance.

In view of the foregoing remarks, favorable consideration and allowance of the application with Claims 1-3, 5-10 and 12-20 are respectfully solicited. If the Examiner believes that a telephone interview would assist in moving the application toward allowance, he is respectfully invited to contact the Applicants' attorney at the telephone number listed below.

Respectfully submitted,



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